

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 867 (RMB)

5 REZA ZARRAB,

6 Defendant.

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8 New York, N.Y.
9 September 11, 2017
12:00 p.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13
14 APPEARANCES

15 JOON H. KIM
16 Acting United States Attorney for the
17 Southern District of New York

MICHAEL LOCKARD
17 SIDHARDHA KAMARAJU
18 Assistant United States Attorneys

19 BRAFMAN & ASSOCIATES, P.C.
Attorneys for Defendant

BENJAMIN BRAFMAN
20 JOSHUA D. KIRSHNER

1 (Case called)

2 THE COURT: As a result of the filing of the
3 superseding indictment last week I scheduled this appearance
4 for an arraignment.

5 You should know that at last week's otherwise
6 scheduled intended to be ruling by the Court on the motion to
7 dismiss regarding Mr. Atilla, we held his arraignment at that
8 time instead, and I mentioned to them that counsel in this case
9 had asked for Mr. Zarrab to be excluded from last week's
10 appearance, thinking it was a motion to dismiss in which he was
11 not involved.

12 Anyway, that's the history. We are here and I would
13 ask, Mr. Brafman, if you and Mr. Zarrab have in fact received
14 the superseding indictment in this matter.

15 MR. BRAFMAN: Yes, your Honor. We received the
16 indictment, it's been reviewed with Mr. Zarrab, and we waive a
17 formal reading, and he is prepared to enter a plea of not
18 guilty.

19 THE COURT: As for the next appearance -- you probably
20 know about this already, Mr. Brafman -- I had asked
21 Mr. Atilla's counsel to meet with you and the government to
22 discuss what impact, if any, his superseding indictment will
23 have on the case from your perspective, theirs as well. I
24 don't know if that's taken place yet. Probably too early.

25 In any event, we put the matter over for September 25

1 at noon. Is that a date that works for you?

2 MR. BRAFMAN: Yes, your Honor.

3 THE COURT: That's a Monday.

4 MR. BRAFMAN: Yes, your Honor.

5 THE COURT: I also asked if there was some consensus,
6 if someone could write me a letter and let me know what that
7 consensus is.

8 MR. BRAFMAN: Your Honor, I briefly spoke with
9 Mr. Rocco, who is counsel for Mr. Atilla, and as, I think the
10 Court may be aware, he suffered a very serious physical
11 setback, had serious heart surgery, as I understand it, and
12 indicated to me that he would not be ready to proceed, in his
13 judgment, with trial on the previously scheduled trial date of
14 October 30.

15 Your Honor, the new indictment poses challenges to us
16 as well because in the new indictment, contrary to the
17 indictment previously filed, the Halk Bank seems to be almost
18 the heart of the indictment. And when we reviewed literally
19 hundreds of thousands of documents, if not more, a number of
20 the documents were not reviewed for the purposes of determining
21 either the deep relationship of Halk Bank to the charges as
22 well as the other names that have been added to the indictment
23 were not included in the search terms that we devised for
24 reviewing those documents.

25 To the extent that we intend to proceed to trial, as

1 is Mr. Zarrab's position at this time, we have a lot of
2 additional work to do.

3 So what I will do is, I will try and reach Mr. Rocco
4 prior to the 25th. We will confer either together or
5 separately with the government and see if we can come up by the
6 25th with a schedule to present to the Court. I just wanted to
7 respectfully alert your Honor to the fact that based on my
8 conversation with Mr. Rocco, he doesn't think he will be
9 physically up to the demands of a trial by October 30. And
10 given the new indictment, I'm not certain that our office could
11 be ready to proceed on October 30 either.

12 THE COURT: The point behind my suggested meet and
13 confer is you get the input from everybody and we can talk
14 about it on the 25th of September. But if you reach some
15 consensus or proposal before that time, if somebody would write
16 me a letter and let me know.

17 MR. BRAFMAN: We will try and do that. I think the
18 meeting with Mr. Rocco may have to be telephonically because
19 I'm not certain he's back to his office yet. As of Friday he
20 wasn't.

21 THE COURT: Ms. Fleming, probably, is she cocounsel?

22 MR. BRAFMAN: I am going to determine who will be lead
23 counsel for Mr. Atilla when we speak to with Mr. Rocco later
24 today. I have never met her, to my knowledge, but I understand
25 that she handled the arraignment and will be at least

1 cocounsel.

2 THE COURT: She handled I think at least one
3 appearance before last Thursday.

4 MR. BRAFMAN: I'm not certain we were at that
5 appearance.

6 THE COURT: Good to see you as usual. I'll see you on
7 the 25th at noon.

8 MR. LOCKARD: Your Honor, if I may just note for the
9 record, at the arraignment of Mr. Atilla the Court did exclude
10 time under the Speedy Trial Act until September 25, which would
11 apply to Mr. Zarrab's case as well.

12 THE COURT: We should do it separately. I am going to
13 find, under 18, United States Code, Section 3161, that the
14 adjournment to and including September 25 -- you remember at
15 Mr. Atilla's arraignment we noted that there was an exclusion
16 under the prior indictment to the trial date. But in the
17 exercise of caution we excluded to September 25, 2017. And I
18 think that is appropriate and the new indictment warrants
19 exclusion of the adjourned time from speedy trial calculations.

20 I further find that the exclusion is designed to
21 prevent any possible miscarriage of justice, to facilitate
22 these proceedings, to guarantee effective representation of and
23 preparation by counsel for all parties, and the need for
24 exclusion and the ends of justice outweigh the interests of the
25 public and the defendant in a speedy trial, pursuant to 18

1 U.S.C. Section 3161(h)(7)(a) and (b). With that, I'll see you
2 on the 25th.

3 MR. BRAFMAN: Thank you, your Honor. Your Honor, one
4 question, sir. For purposes of other scheduling matters in
5 other cases, should I assume as of today that the October 30
6 trial date has been adjourned or should I wait until the 25th?

7 THE COURT: I would wait.

8 MR. BRAFMAN: Thank you, your Honor.

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